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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/163189

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 12, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on February 05, 2015, at Waukesha, Wisconsin.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly reduced the Petitioner's FoodShare benefits, effective February 1, 2015.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

With [REDACTED], her daughter

[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Bonnie Gomez, Economic Support Specialist  
Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.

2. On December 22, 2014, the agency sent the Petitioner a notice, indicating that effective February 1, 2015, her FoodShare benefits would be reduced from \$488.00 per month to \$56.00 per month. (Exhibit 1)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 12, 2015. (DHA file)
4. The Petitioner receives \$409.00 per month in Social Security income. Each of her sons receives \$960.00 per month in Social Security Income. As such, total household income works out to be:  

$$\$409 + \$960 + \$960 = \$2329$$

(Testimony of [REDACTED]; Exhibit 1)
5. Petitioner pays \$1,300 per month for a mortgage and as such, has a heating expense. (Id.)
6. There are three people in the Petitioner's assistance group. (Testimony of [REDACTED]; Exhibit 1)

### DISCUSSION

Petitioner filed an appeal to contest the reduction of her FoodShare benefits. [REDACTED] testified that the Petitioner's FoodShare benefits decreased, because the income the agency counted for the household went up. Previously, the agency failed to include the social security income of one of the Petitioner's sons.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (FSH, at § 4.6):

- (1) a standard deduction – 7 CFR § 273.9(d)(1):

Effective October 1, 2014, this was \$155.00 for an assistance group of 1-3 people,

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 CFR § 273.9(d)(2);

Petitioner does not have any earned income, so this would not apply to her.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

Petitioner did not report any out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

Petitioner did not report any child care expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

There is a cap on this deduction of \$490 per month, unless the recipient is elderly, blind or disabled, meaning a food unit member age 60 or older or a person who receives disability or blindness benefits from any of these programs: SSA, MA, SSI or SSI related MA, Railroad Retirement Board (RRB ). FSH, §3.8.1.1.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner's income we have the following net income calculation for October 1, 2014:

Gross Income	\$2329.00	Rent	\$1300.00
No Earned Income Deduction		HSUA	+\$446.00
Standard Deduction	-\$155.00	50% Net income	-\$1087.00
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$659.00,
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Net Income before shelter deduction	\$2174.00		
Excess Shelter Expense	- \$659.00		
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Final Net Income	\$1515.00		

Individuals, in a household of three, with a net income of \$1515.00 qualify for a FoodShare allotment of \$56.00 per month. FSH §8.1.2

Ultimately, at the hearing, the Petitioner did not dispute the agency's calculation of her FoodShare benefits. Rather, the Petitioner stated that she hoped an exception could be made for her, because she is struggling to feed her family and her rent has gone up.

Regrettably, administrative law judges cannot make exceptions to the established rules and regulations; they must follow the law as it is written. *Oneida County v. Converse*, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993)

If Petitioner's rent has increased, she should report this to the agency, because this might allow for a slight increase in her FoodShare benefits. If Petitioner has any out of pocket medical expenses that exceed \$35.00 per month, she should also report this to the agency.

Additionally, the Petitioner might wish to contact Food Pantry of Waukesha County for help putting food on the table. Food Pantry of Waukesha County may be contacted at:

1301 Sentry Drive  
Waukesha, WI 53186  
Phone: [REDACTED]  
Fax: [REDACTED]

<http://www.waukeshafoodpantry.org>

Client Hours: Monday – Friday, 1-3 pm  
Additional night hours: Thursday, 6-8 pm  
Saturday, 9:30-11:30 am

### **CONCLUSIONS OF LAW**

The agency correctly reduced the Petitioner's FoodShare benefits, effective February 1, 2015.

**THEREFORE, it is**

**ORDERED**

The petition is dismissed.

**REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 20th day of February, 2015.

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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on February 20, 2015.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability